

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GREAT AMERICAN FIDELITY)	
INSURANCE COMPANY,)	
)	Case No. 2:19-cv-11294-LJM-RSW
Plaintiff,)	Judge Laurie J. Michelson
v.)	Magistrate Judge R. Steven Whalen
)	
STOUT RISIUS ROSS LLC, <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	

FINAL ORDER AND JUDGMENT

On May 3, 2019, Plaintiff Great American Fidelity Insurance Company (“Great American”) filed its operative Complaint against Defendants Stout Risius Ross LLC and Stout Risius Ross Inc. (collectively “Stout”) and certain of Stout’s current and former employees and their spouses – Scott D. Levine and Debora Levine, Aziz El-Tahch and Ayelish M. McGarvey, and Robert Socol and Lynn Socol (collectively the “Individual Defendants”).

Plaintiff’s Complaint asserted the following Eight Claims for Relief against Stout and the Individual Defendants (the “Claims”):

a. First Claim for Relief – Declaratory Judgment – No Duty to Defend Stout for Appvion Trust Action¹

b. Second Claim for Relief – Declaratory Judgment – No Duty to Indemnify Defendants for Appvion Trust Action

c. Third Claim for Relief – Declaratory Judgment – No Duty to Defend Defendants for Appvion ESOP Action²

d. Fourth Claim for Relief – Declaratory Judgment – No Duty to Indemnify Defendants for Appvion ESOP Action

e. Fifth Claim for Relief – Express And/Or Implied In Fact Contract – Reimbursement of Defense Fees and Costs of Appvion Trust Action

f. Sixth Claim for Relief – Express And/Or Implied In Fact Contract – Reimbursement of Defense Fees and Costs of Appvion ESOP Action

g. Seventh Claim for Relief – Unjust Enrichment – Reimbursement of Defense Fees and Costs of Appvion Trust Action

h. Eighth Claim for Relief – Unjust Enrichment – Reimbursement of Defense Fees and Costs of Appvion ESOP Action

[ECF 1, PageID 14-23.]

¹ *Appvion Liquidating Trust v. Mark R. Richards, et al.*, United States Bankruptcy Court, District of Delaware, Adv. Pro. No. 18-50955-MFW (the “Appvion Trust Action”).

² *Appvion Inc. Retirement Savings and Employee Stock Ownership Plan v. Douglas P. Buth, et al.*, United States District Court, Eastern District of Wisconsin (Green Bay), Case No. 1:18-cv-01861-WCG (the “Appvion ESOP Action”).

BASED ON the Court's dispositive motion opinions and orders dated January 17, 2020 [ECF 35], February 7, 2020 [ECF 36], February 14, 2020 [ECF 37], August 23, 2021 [ECF 53], and November 1, 2022 [ECF 67],

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Great American's First, Second, Fifth, and Seventh Claims for Relief against Stout are DISMISSED as waived.

2. Great American's Eighth Claim for Relief against Stout is DISMISSED as moot.

3. That part of Great American's Fourth Claim for Relief seeking a Declaration that Great American has no duty to indemnify Stout in the *Appvion ESOP* Action prior to September 25, 2020 is DISMISSED WITHOUT PREJUDICE as unripe.

4. Judgment is GRANTED in favor of Great American and against Stout on (a) that part of Great American's Third Claim for Relief seeking a Declaration that Great American has no duty to defend Stout in the *Appvion ESOP* Action as of September 25, 2020, (b) that part of Great American's Fourth Claim for Relief seeking a Declaration that Great American has no duty to indemnify Stout in the *Appvion ESOP* Action as of September 25, 2020, and (c) that part of Great American's Sixth Claim for Relief seeking reimbursement of costs expended in defending Stout in the *Appvion ESOP* Action on or after September 25, 2020, in the

amount of \$60,486.34. JUDGMENT is entered in favor of Great American and against Stout in the amount of \$60,486.34, plus interest at the statutory rate beginning on September 25, 2020.

5. Judgment is DENIED to Great American in favor of Stout on (a) that part of Great American's Third Claim for Relief seeking a Declaration that Great American has no duty to defend Stout in the *Appvion ESOP* Action prior to September 25, 2020, and DENIED to Great American in favor of Stout on that part of its Sixth Claim for Relief seeking reimbursement of costs expended in defending Stout in the *Appvion ESOP* Action prior to September 25, 2020.

6. Judgment is otherwise DENIED to Great American in favor of Stout and the Individual Defendants.

7. The parties shall bear their own costs and attorneys' fees.

This Final Order disposes of all claims and closes the case.

Dated: February 1, 2023

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Approved as to form:

s/ Elaine M. Pohl

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